

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ARBITUS BIOPHARMA CORPORATION)
and GENEVANT SCIENCES GmbH,)
)
Plaintiffs,)
)
v.) C.A. No. 22-252-MSG
)
MODERNA, INC. and MODERNATX, INC.,)
)
Defendants.)
)
MODERNA, INC. and MODERNATX, INC.,)
)
Counterclaim-Plaintiffs,)
)
v.)
)
ARBITUS BIOPHARMA CORPORATION)
and GENEVANT SCIENCES GmbH,)
)
Counterclaim-Defendants.)

STIPULATION TO EXTEND TIME

WHEREAS, on October 25, 2024, Plaintiffs reached an agreement with the U.S. Government concerning the production of an affidavit to resolve a dispute relating to the adequacy of the Government's preparation of its deposition designees;

WHEREAS, the Court previously extended the deadline for deposing third-party government witnesses to November 8, 2024, to allow additional time for the production of that affidavit, *see* D.I. 411;

WHEREAS, the Government was unable to produce the affidavit by November 8, but has since committed to producing the affidavit on or before November 20, 2024;¹

WHEREAS, Moderna believes that Plaintiffs have not been diligent, but does not wish to further burden the Court; Plaintiffs maintain that they have been diligent, as set forth in their prior motion, *see D.I. 410*;

NOW THEREFORE, the parties hereby stipulate and agree, subject to the approval of the Court, that the time for Plaintiffs to depose third-party government witnesses from the Department of Health and Human Services, the Administration of Strategic Preparedness and Response, the Centers for Disease Control and Prevention, the Department of Army, and the Department of Justice, to the extent such testimony is authorized by these agencies or compelled by the Court, *see D.I. 401, 411*, is extended through and including November 22, 2024.

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Dated: November 8, 2024

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¹ Separate from the substantive affidavit at issue here, the Government has also agreed to provide business record certifications. *See Fed. R. Evid. 803(6); 902(11).* The Government could not commit to a date certain for these certifications but expects to produce them within four weeks.

SO ORDERED this ____ day of November, 2024

Hon. Mitchell S. Goldberg